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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/789,331
Filing Date: February 27, 2004
Appellant: LEVINE, BRIAN

Steven Greenberg
Reg. No. 44,725
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/27/2010 appealing from the Office action mailed May 25, 2010.

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(1) REAL PARTY IN INTEREST

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) RELATED APPEALS AND INTERFERENCES

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

The following is a list of claims that are rejected and pending in the application: 1-13.

(4) STATUS OF AMENDMENTS AFTER FINAL

The examiner has no comment on the appellant's statement of amendments after final rejection contained in the brief.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

The examiner has no comment on the summary of the claimed subject matter contained in the brief.

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(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

7) CLAIMS APPENDIX

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) EVIDENCE RELIED UPON

- U.S. 7,440,961 Matousek et al. 02/2004
- U.S. 2003/0061433 Hall et al. 09/2001
- Dawson et al., "RFC 2445: Internet Calendaring and Scheduling Core Object Specification (iCalendar)", Nov. 1998, from
http://delivery.acm.org/10.1145/rfc_fulltext/RFC2445/rfc2445.txt?key1=RFC2445&key2=6089654721&coll=GUIDE&dl=GUIDE&CFID=89289591&CFTOKEN=81188603

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(9) GROUNDS OF REJECTION

The following ground of rejection is applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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3. Claims 1-7 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matousek (US 7,440,961) in view of *Hall* et al., US 2003/00614333.

Concerning claims 1 and 9, *Matousek* discloses a method for applying ordered modifications to recurring event instances, the method comprising the steps of:

identifying an event exception in a calendaring system executing in memory by a processor of a computer, the event exception corresponding to a separately defined and separately stored recurring event instance in the calendaring system (*Matousek*, col. 7, lines 25-43, i.e., identifying the correct instance of a recurrence event and its instance identifier associated with the appropriate exception). Examiner clarifies that that the term "separately stored" is construed broadly since being stored separately may be applied in a very broad way such as data being stored in different types of files or systems, devices, databases, or as narrowly as data being contained in separate tables or cells.

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Matousek fails to disclose modifying at least one property of said recurring event instance based upon said separately stored event exception. However, *Hall*, [37], discloses wherein the expander is used to modify records.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the method of modifying at least one property of said recurring event instance, as taught by Hall, into the system of Matousek. Under *KSR International Co.*, “...any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed.” *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, ___, 82 USPQ2d 1385, 1397 (2007). Thus a reference in a field different from that of applicant’s endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor’s attention in considering his or her invention as a whole. At the time of the subject invention, there existed

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a known problem in the art of modifying recurring event instances while also minimizing space and keeping accurate track of scheduling data (as discussed Matousek's Background of the Invention. The invention of Hall is directed to solving the same type of problem.

Concerning claims 2 and 10, *Matousek in view of Hall* discloses the method of claim

1, further comprising the steps of:

further identifying additional event exceptions corresponding to said recurring event

instance (*Hall*, [38], wherein the retractor identifies exceptions in discrete

records to create a general exception) and,

for each one of said further identified additional event exceptions, further modifying at

least one property of said recurring event instance based upon said one of

said further identified additional event exceptions (*Hall*, [38], wherein the

identified exception adhere to prescribed modifications, e.g., retractor

generates exceptions revealing the modification in time on the first Monday).

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Concerning claims 3 and 11, *Matousek in view of Hall* discloses the method of claim

1, further comprising the step of repeating said identifying and modifying steps for additional ones of the recurring event instances (*Hall*, ¶ 0037, via expander and synch engine).

Concerning claims 4 and 12, *Matousek in view of Hall* discloses the method of claim

1, further comprising the steps of: further identifying event exceptions relating to said recurring event instance which have become stale (*Hall*, ¶ 0052, i.e., deleting records if the status is new or unchanged, and the later record has been changed by an exception).

Concerning claims 5 and 13, *Matousek in view of Hall* discloses the method of claim

4, wherein said further identifying step comprises the step of further identifying event exceptions whose specified modifications to event properties in said recurring event instance have been obviated by modifications specified in subsequently defined event exceptions (*Hall*, ¶¶ 0038 and 0052).

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Concerning claim 6 and 7, *Matousek in view of Hall* discloses a calendaring system

comprising:

a computer with processor and memory (Hall, [29]);

a recurrence event expander disposed within a calendaring system (Matousek, Fig. 2,

Ele. 208) executing in the memory by the processor of the computer, the

expander being programmed to expand recurrence events into event instances

based upon the properties specified within the recurrence events; and, (Hall,

Fig. 8, Ele. 70); and,

a recurrence event modifier also disposed within the calendaring system and coupled

to said recurrence event expander, the modifier modifying properties within the

event instances based upon event exceptions defined for respective ones of

the event instances and separately stored from the event instances. (Hall, Fig.

2, Ele. 24 connected to Ele. 20).

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Concerning claim 7, *Matousek in view of Hall* discloses the system of claim 6, further comprising a modification rule reducer coupled to the recurrence event modifier, the modification rule reducer inspecting older ones of the event exceptions to detect stale event exceptions (Hall, [52], describing deleting old records).

4. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Matousek in view of Hall* and further in view of AAPA.

In the response dated 05/04/2009, the applicant failed to timely traverse the officially noticed fact that at the time of the invention, iCalendar was a standard file format for calendar data exchange. (See Dawson et al., RFC 2445, Internet Calendaring and Scheduling Core Object Specification (iCalendar), Nov. 1998, from

http://delivery.acm.org/10.1145/rfc_fulltext/RFC2445/rfc2445.txt?key1=RFC2445&key2=6089654721&coll=GUIDE&dl=GUIDE&CFID=89289591&CFTOKEN=81188603.

Therefore, the officially noticed fact is hereby regarded as applicant's admitted prior art.